

## **Land Grant Interim Committee Working Group Discussion topics**

### **Capital Outlay for Community Land Grants**

**Issue:** Community Land Grants that are political subdivisions of the State are eligible to receive capital outlay funding from the New Mexico Legislature, however once funding is appropriated accessing those funds has become an issue for many community land grants. The main problem is that most state agencies require that capital outlay dollars be reimbursed after a grant agreement has been put in place between the agency and land grant. Given the fact that most land grants have no guaranteed revenue stream and have budgets well below \$10,000.00 it is virtually impossible for a land grant board of trustees to make upfront capital purchases as required by most agency grant agreements. In the past several land grants have made requests to the Department of Finance and Administration Local Government Division to waive the reimbursement requirement and instead either provide a disbursement of funds to the land grant based on submittal of an unpaid invoice or directly pay a third party vendor. In all instances the requests have gone unanswered and in most cases have resulted in capital outlay dollars not being expended and reverting.

To compound the problem Executive Order 2013-006, which requires that local government either make public their most recent financial audit (if they are required to have one) and that there are no material weakness or significant deficiencies that raise concerns with the local government's ability to expend capital dollars or if they are not required to have an audit (which is the case for most community land grants) that the granting state agency determine if the local government entity has the fiscal capacity to properly administer the funds, will likely make it impossible for most land grants to even receive a grant agreement that will authorize them to expend any legislative capital outlay awards.

**Potential solutions:** There are 3 potential options for addressing the issue, they include:

1. Provide community land grants that are political sub-divisions of the State with a guaranteed revenue stream. This would allow community land grants to provide upfront funding for capital project costs and then be reimbursed for those costs from legislative capital outlay appropriations. This should eliminate the need to make any changes in how executive branch agencies administer capital outlay dollars as it relates to community land grants.
2. Direct executive branch agencies to make third party payments to vendors on behalf of community land grants and other political subdivisions with annual operating budgets of less than \$50,000. This would allow for community land grants and other similar entities to procure goods and services without having to finance costs upfront. Initially community land grants would likely need assistance in the procurement process to ensure that all applicable laws and regulations are met. Providing executive branch agencies with proof that the procurement code was properly followed could be a requirement for the distribution of direct third party payments.

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3. Amend the New Mexico Finance Authority's statute to allow them to provide zero or low interest short term loans to community land grants and other political subdivisions in a total amount not to exceed that entity's granted legislative capital outlay appropriation(s). It would also be necessary to give NMFA the authority to intercept the capital outlay appropriation once goods and/or services have been purchased/ completed and the appropriation is released. This would be similar to how NMFA currently provides loan financing to political subdivisions against their anticipated gross receipts revenues. NMFA currently has the authority to intercept a portion of those gross receipts to service loan debt. Another option would be to give NMFA the authority to receive capital outlay appropriations on behalf of community land grants and then make direct third party payments to vendors on their behalf, in the same manner outlined in option 2.

### **Guaranteed Revenue Stream for Land Grants**

**Issue:** In 2004, the majority of community land grants became recognized units of government, however unlike most units of government they were never granted a guaranteed revenue stream, such as a tax base. Without a guaranteed revenue stream most community land grants have very limited budgets, and therefore are not able to leverage their general fund dollars to finance projects, to pay for maintenance and operations costs associated with managing land grant assets, and service any debt.

**Potential Solution:** Create a state derived recurring funding source for community land grants that are political subdivision of the state. Potential options for funding could include:

1. Pass legislation to grant community land grants taxing authority.
2. Utilize severance tax surplus money (or other appropriate funding source) to establish a Trust/Permanent Fund from which interest earnings could be utilized for: distribution to community land grants and to fund the Land Grant Council. Fund could be capitalized over several years so as not to have a significant impact on available severance tax funding for any one year and to ensure that interest earnings are adequate enough properly fund intended purpose.

### **Financial Reporting Requirements for Community Land Grants and Other Small Units of Local Government.**

**Issue:** When community land grants and other entities with budgets of less than \$50,000 receive capital outlay awards they are required to complete a tier 3 financial report to the State Auditor's office. For those with budgets of less than \$10,000 this requirement can be quite cumbersome and potentially hinder their ability to receive future capital outlay funding if they are unable to successfully complete their financial reports in a timely manner.

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### **Potential Solutions:**

1. Provide community land grants with a guaranteed revenue stream, thereby affording them the resources to pay for financial reporting services.
2. Establish a hardship assistance fund within the State Auditor's Office whereby the State Auditor can hire additional staff and/or contract services to provide no cost financial reporting services to community land grants and other small units of government with annual operating budgets of less than \$50,000. The fund could be modeled after the 1% for the Arts fund managed by Cultural Affairs Department. That is to say that a certain percent of every capital outlay appropriation would be pulled off the top and sent to the Office of the State Auditor for the fund. The percent needed would likely be less than 1%.

### **Status and Funding for the New Mexico Land Grant Council**

**Issue:** The New Mexico Land Grant Council is underfunded and as a result has had difficulty completing its mission of providing services to community land grants. At current funding levels, the Council is only able to hire part-time contract staff and provide minimal support to community land grants. An increase in funding would allow the Council to be fully staffed and provide greater resources and assistance to community land grants statewide. Even with its limited funding, the Council has been able to: establish a Land Grant Support Fund, where financial resources are provided directly to eligible community land grants; provide limited free legal assistance to community land grants through a legal services contract with NM Legal Aid; Provide workshops and trainings; act as a liaison between land grants and other government entities, namely the US Forest Service and the Bureau of Land Management; Engage in policy discussions at the state and federal level regarding issues affecting community land grants.

If the Council were funded at the level of \$500,000 it would have enough staff to provide dedicated support to Community Land Grants statewide in the areas of governance capacity building; ensuring community land grants comply with applicable state laws; capital project development and management; and more sound management of common lands. As well as, increase the amount of free legal services provided to community land grants and increase the amount of direct financial support to community land grants. Also If fully staffed the Council could fulfill its statutory ability to to serve as fiscal agent for community land grants and if the Legislature creates a fund for providing community land grants with a guaranteed revenue stream the Council can serve as the distribution point for those funds.

In addition to increasing the amount of funding to the Council, there may also be a need to find a new administrative home for the Council. Currently the Council is administratively attached to the Department of Finance and Administration, but has a closer working relationship with the University of New Mexico.

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**Potential Solutions:** Increase the level of funding currently received by the New Mexico Land Grant Council, either through directly increasing the current appropriation in the state budget or creating a Trust Fund (as described above) for community land grants of which a portion of earnings would go towards funding the Council. Amend the Council's statute to administratively attach them to the University of New Mexico.